

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 08-00649-CV-W-FJG
)	
UNITED STATES CURRENCY IN THE)	
AMOUNT OF \$43,920.00, et al.)	
)	
Defendants.)	

ORDER

Pending before the Court is Claimant, Larry Paul Goodyke's Motion to Vacate (Doc. No. 50). Claimant moves to vacate the Court's Order granting Summary Judgment for Plaintiff, entered on March 14, 2010 (Doc. No. 48).

In this civil forfeiture action, the Court's summary judgment ruling allowed the government to seize the property named in the Complaint due to its involvement in the criminal violations for which Goodyke was convicted. Claimant moves the Court to vacate the Summary Judgment Order pursuant to Federal Rule of Civil Procedure 60(b), which sets forth grounds for relief from final judgment, order, or proceeding. Claimant argues he was deprived of due process of law because he did not receive a copy of Plaintiff's Motion for Summary Judgment or this Court's Order granting Summary Judgment until long after the Court issued the ruling.

The docket sheet belies Claimant's assertions. Plaintiff filed its Motion for Summary Judgment on March 12, 2010, and sent a copy of the motion to Goodyke's address of record (Doc. No. 45). On March 24, Claimant filed a "PETITION IN THE NATURE OF A CONDITIONAL ACCEPTANCE OF PLAINTIFFS' [sic] MOTION FOR SUMMARY JUDGMENT OF FORFEITURE" (Doc. No. 46). Claimant's Petition made

specific reference to Plaintiff's Motion for Summary Judgment throughout. Thus, it is clear that Claimant received Plaintiff's Motion for Summary Judgment and exercised his right to file a responsive pleading in defense of his property. Claimant's additional argument regarding the alleged invalidity of the search warrant executed upon his property was not raised in his Petition, and is outside the scope of the instant motion. Any deficiency in the search warrant goes to the merits of the issue already ruled upon, rather than proper grounds to vacate under Rule 60(b).

After reviewing Claimant's pleadings the Court finds no grounds under Fed. R. Civ. P. 60(b) on which to vacate the Order granting summary judgment for Plaintiff (Doc. No. 48). Accordingly, Claimant's Motion to Vacate (Doc. No. 50) is hereby **DENIED**.

IT IS FURTHER ORDERED that the Clerk of the Court send a copy of this order via regular and certified mail to Claimant at the following address: Larry Paul Goodyke, 42953-048, Federal Correctional Institution, La Tuna, P.O. Box. 3000, Anthony, NM/TX 88021.

IT IS SO ORDERED.

Date: 02/03/11
Kansas City, Missouri

/s/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
Chief United States District Judge